



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D C 20463

**JAN 12 2004**

**Mr. David LeBlanc**  
5736 Northbrook Drive  
Plano, Texas 75093

**RE: MUR 5398**

**Dear Mr. LeBlanc:**

On December 19, 2003, the Federal Election Commission found that there is reason to believe that you knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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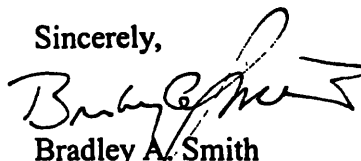
Mr. David LeBlanc

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This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Kathleen Dutt, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith  
Chairman

Enclosures

Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**  
**999 E Street, N.W.**  
**Washington, D.C. 20463**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: David LeBlanc

MUR: 5398

**I. INTRODUCTION**

LifeCare is a corporation whose sole purpose is to act as a holding company for its subsidiary, LMS.<sup>1</sup> LMS is a limited liability company (LLC) that was established in the state of Louisiana with LifeCare as its sole member. LifeCare and LMS go beyond having close ties with one another—they are essentially alter egos of one another. LifeCare and LMS share corporate offices and each executive officer of LMS holds the same title in LifeCare, although the position within LifeCare carries no added responsibilities or additional compensation. Further, LifeCare has no cash flow of its own, and conducts none of its own operations. David LeBlanc was Chief Executive Officer and President of LMS during the time period relevant to this matter.

Information obtained by the Commission in the course of its supervisory responsibilities indicates that: (1) during his tenure as Chief Executive Officer and President of LMS, David LeBlanc had full discretionary authority to award non-annual bonuses which were not subject to any formal review process; (2) there is an unusually close correlation between political contributions made by LMS employees and bonus and expense payments paid out to those employees by LMS from 1997 to 2002; (3) Mr. LeBlanc reportedly had an agreement with former LMS Vice President for Government Relations, Donald Boucher, to increase Mr.

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<sup>1</sup> LifeCare was co-founded by David LeBlanc and Ann George in 1992. Mr. LeBlanc served as CEO and President of both LMS and LifeCare during the time period relevant to this matter and Ms. George was an employee of LMS during the relevant time period.

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1 Boucher's salary in the amount necessary to pay for political contributions made by Mr. Boucher;  
2 and (4) Mr. Boucher encouraged at least one LMS executive to make certain political  
3 contributions and told the executive that the money would be repaid to him—the executive  
4 subsequently made contributions which, according to the executive, were reimbursed by LMS.

5 **II. FACTUAL AND LEGAL ANALYSIS**

6 The Act provides that officers or directors of any corporation are prohibited from  
7 consenting to any contribution or expenditure by the corporation.<sup>2</sup> 2 U.S.C. § 441b(a). The  
8 Act's corresponding regulations also prohibit persons from knowingly permitting his or her name  
9 to be used to effect that contribution or assisting in making contributions in the name of another.  
10 See 11 C.F.R. § 110.4(b)(1)(ii)—(iii). As discussed above, there is significant correlation  
11 between expense payments, bonuses, and salary adjustments authorized and received by Mr.  
12 LeBlanc from 1997 through 2002, and political contributions made by him. The total amount of  
13 contributions potentially reimbursed to Mr. LeBlanc was \$25,500.

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18 In fact, on at least one  
19 occasion, Mr. Thompson made such a contribution and was reimbursed by a personal check from

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<sup>2</sup> All of the facts relevant to these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act or statements of law regarding provisions of the Act contained in this report refer to the Act as it existed prior to the effective date of BCRA. Similarly, all citations to the Commission's regulations or statements of law regarding any specific regulation contained in this report refer to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA.

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1 Mr. Boucher, who received the money from LMS by including that amount on one of his own  
2 expense reports. Based on the foregoing, the Commission finds reason to believe that David  
3 LeBlanc violated 2 U.S.C. §§ 441b(a) and 441f.

4 Further, the Commission finds reason to believe that Mr. LeBlanc acted knowingly and  
5 willfully. The Act addresses violations of law that are knowing and willful. *See* 2 U.S.C.  
6 §§ 437g(a)(5)(B) and 437g(d). The knowing and willful standard requires knowledge that one is  
7 violating the law. *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D. N.J.  
8 1986). A knowing and willful violation may be established “by proof that the defendant acted  
9 deliberately and with knowledge that the representation was false.” *US v. Hopkins*, 916 F.2d  
10 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn “from the  
11 defendant’s elaborate scheme for disguising”  
12 his or her actions. *Id.* at 214-15.

13  
14 the descriptions given on expense reports and bonus requests  
15 submitted by Mr. LeBlanc and Mr. Boucher, which were allegedly used to reimburse LMS  
16 employees for political contributions, include the following: “bonus for job well done,” “bonus  
17 pay,” “retro pay increase,” “expense advance,” and “expenses,” among others. Since these  
18 descriptions indicate attempts to disguise the reimbursement of the political contributions, they  
19 may have been deliberately deceptive and can be used to infer knowing and willful behavior by  
20 Mr. LeBlanc and Mr. Boucher. *See Hopkins*, 916 F.2d. at 214-15. Accordingly, the Commission  
21 finds reason to believe that Mr. LeBlanc knowingly and willfully violated 2 U.S.C. §§ 441b(a)  
22 and 441f.

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